

AA 94-00 Julia & William Carraway

VAR

2000-0056-V

USA-S-1829-675

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CHESAPEAKE BAY  
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

**CASE NUMBER 2000-0056-V**

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**IN RE: JULIA CARRAWAY**

**SECOND ASSESSMENT DISTRICT**

**DATES HEARD: APRIL 4, 2000**

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**ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER**

**ZONING ANALYST: CHARLENE MORGAN**

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**DATE FILED: APRIL 12, 2000**

## **PLEADINGS**

Julia Carraway, the applicant, seeks a variance (2000-0056-V) to permit dwelling additions with less buffer than required and on steep slopes on property located along the south side of Maid Marion Hill, south of Sherwood Forest Road, Annapolis.

## **PUBLIC NOTIFICATION**

The case was advertised in accordance with the provisions of the County Code. Ms. Carraway testified that the property was posted for 14 days prior to the hearing.

## **FINDINGS AND CONCLUSIONS**

The applicant owns a single-family residence located at 634 Maid Marion Hill, in the subdivision of Sherwood Forest, Annapolis. The property comprises 11,124 square feet and is zoned R-2 residential, with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). This is a nonwaterfront lot.

The applicant proposes to enclose two existing porches and construct a screened porch and two open decks. The new construction is within the Chesapeake Bay Critical Area buffer as expanded for steep slopes and on steep slopes.

The Anne Arundel County Code, Article 28, Section 1A-104(a)(1)

establishes a minimum 100-foot buffer from the mean high-water line of tidal waters. The buffer expands to include all land within 50 feet of the top of contiguous steep slopes. Section 1A-105(c) prohibits development on slopes 15 percent or greater in the LDA. Accordingly, the project requires a variance to build in the expanded buffer and on steep slopes.

Charlene Morgan, a zoning analyst with the Department of Planning and Code Enforcement, testified that the property is heavily impacted by the expanded buffer and steep slopes which characterize most of the subdivision. The proposal is consistent with adjacent development. She reported that the Critical Area Commission did not oppose the limited disturbance for footers in the expanded buffer, conditioned on mitigation at a 3:1 ratio. Accordingly, the witness supported the application.

Ms. Carraway testified that the purpose of the proposal is to enhance the view and access. She submitted a series of photographs depicting the site and the neighborhood. Because the area proposed for construction is largely unvegetated, she requested a waiver to reforestation. In this regard, the witness submitted copies of decisions by this office in three other cases in Sherwood Forest: Case No. 1999-0113-V, Case No. 1999-0071-V and Case No. 1999-0184-V.

Michael Helfrich, the applicant's engineer, recommended mitigation at a 3:1 basis for the new screened porch, which represents the only area of new impervious coverage.

Bart Key, the General Manager of the Sherwood Forest Club, testified that

the applicant has received all required community approvals. There was no adverse testimony concerning the application.

Upon review of the facts and circumstances, I find and conclude that the applicant is entitled to relief from the code. For this Critical Area property, in view of the extent of the expanded buffer and the steep slopes, a strict implementation of the program would result in an unwarranted hardship to the applicant. To literally interpret the program will deprive her the right to a reasonable expansion, which right is commonly enjoyed by other properties in similar areas from the Critical Area. Conversely, the granting of the variance will not confer any special privilege that the program typically denies to other lands within the Critical Area. There was nothing to suggest that the request is based on conditions resultant from actions by the applicant; nor does it arise from conditions relating to land use on neighboring property. Finally, with mitigation, the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the County's Critical Area and will be in harmony with the general spirit and intent of the program. I further find that the variance is the minimum necessary to afford relief. The new screened porch and decks are relatively modest in size. There was nothing to suggest that the granting of the variance will alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare. The approval shall be subject to the conditions in the

Order.<sup>1</sup>

**ORDER**

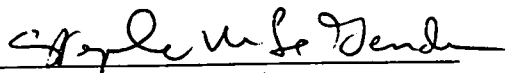
PURSUANT to the application of Julia Carraway, petitioning for a variance to permit dwelling additions with less buffer than required and on steep slopes; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 12<sup>th</sup> day of April, 2000,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants is hereby **granted** a variance to permit additions within the expanded buffer and on steep slopes in accordance with the site plan.

The foregoing variance is subject to the following conditions:

1. The footers shall be hand dug.
2. The applicant shall provided mitigation at a 3:1 ratio for new disturbance in the expanded buffer.

  
Stephen M. LeGendre  
Administrative Hearing Officer

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<sup>1</sup>I have required that footers shall be hand dug. After due consideration, I have required mitigation at a 3:1 basis for new disturbance in the expanded buffer. The mitigation is consistent with the mitigation imposed in Case No. 1999-0404-V (also in Sherwood Forest). In this regard, the cases cited by the applicant are not relevant. Cases No. 1999-0113-V and 1999-0071-V did not involve Critical Area variances. In Case No. 1999-0184-V, where the mitigation was limited to in kind replacement, the construction was on steep slopes but not within the expanded buffer.

### **NOTICE TO APPLICANT**

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further, Section 11-102.2 of the Anne Arundel County Code states:

A variance granted under the provisions of this Article shall become void unless a building permit conforming to the plans for which the variance was granted is obtained within one year of the grant and construction is completed within two years of the grant.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.

Judge John C. North, II  
Chairman



Ren Serey  
Executive Director

**STATE OF MARYLAND  
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

45 Calvert Street, 2nd Floor, Annapolis, Maryland 21401  
(410) 260-7516 Fax: (410) 974-5338

March 13, 2000

Mr. Kevin Dooley  
Anne Arundel County Department of Planning and Code Enforcement  
2664 Riva Road, MS 6301  
Annapolis, MD 21401

RE: Variance 2000-0056-V, Julia Carraway

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit a dwelling addition with less setbacks and Buffer than required and on steep slopes. The property is designated LDA and is currently developed with a single family dwelling.

Because the addition appears to be a reasonable expansion of living space and will involve only installation of footings, this office does not oppose the variance requested. We recommend mitigation at a 3:1 ratio for new disturbance in the expanded Buffer.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler  
Natural Resources Planner

cc: AA94-00

Branch Office: 31 Creamery Lane, Easton, MD 21601  
(410) 822-9047 Fax: (410) 820-5093

TTY FOR DEAF ANNAPOLIS-974-2609 D.C. METRO-586-0450

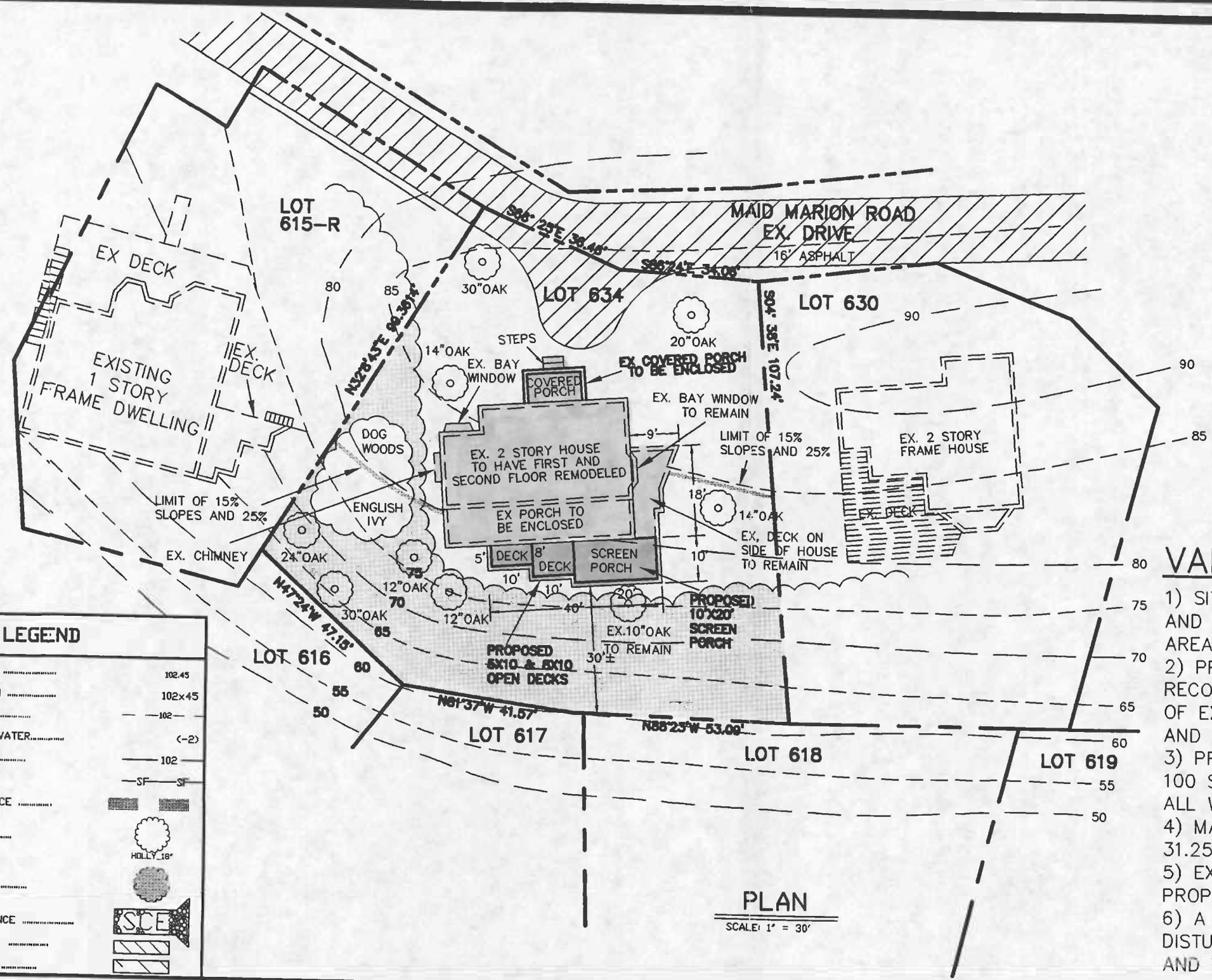




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CRITICAL AREA COMMISSION

C:\Program Files\AutoCAD R14\PROJECTS\CARRAWAY\Carraway2.dwg Tue Feb 01 11:50:28 2000



**NOTE:**

ENTIRE SITE IS LOCATED  
WITHIN EXPANDED  
BUFFER OF CRITICAL  
AREA.

**VARIANCE NOTES:**

- 1) SITE IS 11124 SQUARE FEET AND ZONING IS R-2 AND CRITICAL AREA LDA.
- 2) PROPOSED CONSTRUCTION INCLUDES RECONSTRUCTION OF FIRST AND SECOND FLOORS OF EXISTING HOUSE, 10'X20' SCREEN PORCH AND 8'X10' AND 5'X10' OPEN DECKS.
- 3) PROPOSED DISTURBANCE IS LESS THAN 100 SQUARE FEET FOR FOOTERS. ALL WITHIN 10' OF EXISTING BUILDING.
- 4) MAXIMUM ALLOWED IMPERVIOUSNESS IS  $31.25\% \times 11124 = 3476.25$  SQFT
- 5) EXISTING IMPERVIOUSNESS IS 1932 SQFT; PROPOSED IMPERVIOUSNESS IS 2132 SQFT;
- 6) A VARIANCE IS REQUESTED TO ALLOW DISTURBANCE OF STEEP SLOPES AND THE EXPANDED BUFFER IN THE CRITICAL AREA.

**PLAN**

SCALE: 1" = 30'

**OWNER:**

BILL & JULIA  
CARRAWAY  
P.O. BOX 6606  
ANNAPOLIS, MD 21401  
410-264-1137

LOT 634, PLAT 6  
"SHERWOOD FOREST"  
P.B. 7, PAGE 34, PLAT 395  
TAX MAP 51, GRID 21  
2nd DISTRICT  
ANNE ARUNDEL COUNTY, MD

**GAMMA**

ENGINEERING  
844 WEST STREET  
ANNAPOLIS, MD 21401  
(410) 626-1070

VARIANCE  
SITE PLAN  
FOR IMPROVEMENTS  
TO EXISTING  
RESIDENTIAL HOME

DATE: JAN 2000

SHEET 1 OF 1